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FEB - 5 2013

1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013-1105

DEPARTMENT OF REAL ESTATE
BY: Jana B. Olson

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of)	DRE No: H-38041 LA
)	OAH No: 2012050857
EVANS/SIPES INC and)	
MICHAEL GRANT SIPES,)	<u>STIPULATION AND</u>
individually, and as designated)	<u>AGREEMENT</u>
officer of Evans/Sipes Inc,)	
)	
Respondents.)	

It is hereby stipulated by and between Respondents EVANS/SIPES INC and MICHAEL GRANT SIPES, represented by Frank M. Buda, Esq., and the Complainant, acting by and through James A. Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on April 12, 2012, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"); shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement ("Stipulation").

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondents timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive the right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in their defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondents choose not to contest these
24 allegations, but to remain silent and understand that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
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1 action stipulated to herein. The Real Estate Commissioner shall
2 not be required to provide further evidence to prove said factual
3 allegations.

4 5. This Stipulation is made for the purpose of
5 reaching an agreed disposition of this proceeding and is
6 expressly limited to this proceeding and any other proceeding or
7 case in which the Department of Real Estate ("Department"), the
8 state or federal government, or any agency of this state, another
9 state or federal government is a party.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt this Stipulation as his Decision in
12 this matter thereby imposing the penalty and sanctions on
13 Respondents' real estate licenses and license rights as set forth
14 in the "Order" herein below. In the event that the Commissioner
15 in his discretion does not adopt the Stipulation, it shall be
16 void and of no effect and Respondents shall retain the right to a
17 hearing and proceeding on the Accusation under the provisions of
18 the APA and shall not be bound by any stipulation or waiver made
19 herein.

20 7. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department of Real
24 Estate with respect to any matters which were not specifically
25 alleged to be causes for Accusation in this proceeding but do
26 constitute a bar, estoppel and merger as to any allegations
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1 actually contained in the Accusation against Respondents herein.

2 8. Respondents understand that by agreeing to this
3 Stipulation, Respondents agree to pay, pursuant to Business and
4 Professions Code Section 10148, the cost of the audits which led
5 to this disciplinary action. The amount of said cost is
6 \$8,924.65.

7 9. Respondents have received, read, and understand the
8 "Notice Concerning Costs of Subsequent Audit." Respondents
9 further understand that by agreeing to this Stipulation, the
10 findings set forth below in the Determination of Issues become
11 final, and the Commissioner may charge Respondents for the cost
12 of any subsequent audit conducted pursuant to Business and
13 Professions Code Section 10148 to determine if the violations
14 have been corrected. The maximum cost of the subsequent audit
15 will not exceed \$8,924.65.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing, it is stipulated and agreed
18 that the following determination of issues shall be made:

19 I.

20 The conduct of EVANS/SIPES INC and MICHAEL GRANT SIPES,
21 as described in Paragraph 4, hereinabove, are in violation of
22 Business and Professions Code Sections 10145, 10140.6(b) and
23 10159.5 and provides a basis for discipline of their licenses and
24 license rights pursuant to Business and Professions Code Section
25 10177(d).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

A.

All licenses and licensing rights of Respondent
EVANS/SIPES INC under the Real Estate Law are suspended for a
period of thirty (30) days from the effective date of this
Decision; provided, however, that thirty (30) days of said
suspension, shall be stayed for two (2) years upon the following
terms and conditions:

1. Respondent shall obey all laws, rules and
regulations governing the rights, duties and responsibilities of
a real estate licensee in the State of California; and

2. That no final subsequent determination be made,
after hearing or upon stipulation that cause for disciplinary
action occurred within two (2) years of the effective date of
this Decision. Should such a determination be made, the
Commissioner may, in his discretion, vacate and set aside the
stay order and reimpose all or a portion of the stayed
suspension. Should no such determination be made, the stay
imposed herein shall become permanent.

B.

Pursuant to Section 10148 of the Business and
Professions Code, Respondent shall pay the Commissioner's
reasonable cost for: a) the audit which led to this disciplinary

1 action and b) a subsequent audit to determine if Respondent has
2 corrected the trust fund violations found in the Determination
3 of Issues. In calculating the amount of the Commissioner's
4 reasonable cost, the Commissioner may use the estimated average
5 hourly salary for all persons performing audits of real estate
6 brokers, and shall include an allocation for travel costs,
7 including mileage, time to and from the auditor's place of work
8 and per diem. Respondent shall pay such costs within 60 days of
9 receiving an invoice from the Commissioner detailing the
10 activities performed during the audit and the amount of time
11 spent performing those activities, unless Respondent provides
12 proof that such costs have already been paid. The Commissioner
13 may, in his discretion, vacate and set aside the stay order, if
14 payment is not timely made as provided for herein, or as
15 provided for in a subsequent agreement between the Respondent
16 and the Commissioner. The vacation and the set aside of the
17 stay shall remain in effect until payment is made in full, or
18 until Respondent enters into an agreement satisfactory to the
19 Commissioner to provide for payment.

20 II.

21 A.

22 All licenses and licensing rights of Respondent
23 MICHAEL GRANT SIPES under the Real Estate Law are suspended for
24 a period of thirty (30) days from the effective date of this
25 Decision; provided, however, that thirty (30) days of said
26 suspension, shall be stayed for two (2) years upon the following
27 terms and conditions:

1 1. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

4 2. That no final subsequent determination be made,
5 after hearing or upon stipulation that cause for disciplinary
6 action occurred within two (2) years of the effective date of
7 this Decision. Should such a determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 B.

13 Pursuant to Section 10148 of the Business and
14 Professions Code, Respondent shall pay the Commissioner's
15 reasonable cost for: a) the audit which led to this disciplinary
16 action and b) a subsequent audit to determine if Respondent has
17 corrected the trust fund violations found in the Determination
18 of Issues. In calculating the amount of the Commissioner's
19 reasonable cost, the Commissioner may use the estimated average
20 hourly salary for all persons performing audits of real estate
21 brokers, and shall include an allocation for travel costs,
22 including mileage, time to and from the auditor's place of work
23 and per diem. Respondent shall pay such costs within 60 days of
24 receiving an invoice from the Commissioner detailing the
25 activities performed during the audit and the amount of time
26 spent performing those activities, unless Respondent provides
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1 proof that such costs have already been paid. The Commissioner
2 may, in his discretion, vacate and set aside the stay order, if
3 payment is not timely made as provided for herein, or as
4 provided for in a subsequent agreement between the Respondent
5 and the Commissioner. The vacation and the set aside of the
6 stay shall remain in effect until payment is made in full, or
7 until Respondent enters into an agreement satisfactory to the
8 Commissioner to provide for payment.

9 C.

10 All licenses and licensing rights of Respondent MICHAEL
11 GRANT SIPES are indefinitely suspended unless or until Respondent
12 provides proof satisfactory to the Commissioner, of having taken
13 and successfully completed the continuing education course on
14 trust fund accounting and handling specified in paragraph (3) of
15 subdivision (a) of Section 10170.5 of the Business and
16 Professions Code. Proof of satisfaction of this requirement
17 includes evidence that respondent has successfully completed the
18 trust fund account and handling continuing education course
19 within 120 days prior to the effective date of the Decision in
20 this matter.

21 D.

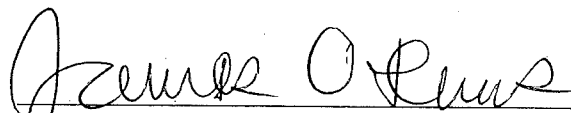
22 Respondent MICHAEL GRANT SIPES shall within six (6)
23 months from the effective date of the Decision herein, take and
24 pass the Professional Responsibility Examination administered by
25 the Department including the payment of the appropriate
26 examination fee. If Respondent MICHAEL GRANT SIPES fails to
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1 satisfy this condition, the Commissioner may order suspension of
2 Respondent MICHAEL GRANT SIPES's license until Respondent passes
3 the examination.

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5 III.

6 All proof of payment and completed coursework shall be
7 submitted to Department Counsel James A. Demus, Attention: Legal
8 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
9 Los Angeles, California 90013-1105, on or before the dates set
10 forth above.

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12 DATED: 1/11/13



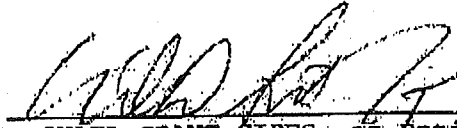
JAMES A. DEMUS, Counsel for
the Department of Real Estate

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15 EXECUTION OF THE STIPULATION


16 I have read the Stipulation and discussed it with my
17 counsel. Its terms are understood by me and are agreeable and
18 acceptable to me. I understand that I am waiving rights given to
19 me by the California Administrative Procedure Act (including but
20 not limited to Sections 11506, 11508, 11509 and 11513 of the
21 Government Code), and I willingly, intelligently and voluntarily
22 waive those rights, including the right of requiring the
23 Commissioner to prove the allegations in the Accusation at a
24 hearing at which I would have the right to cross-examine
25 witnesses against me and to present evidence in defense and
26 mitigation of the charges.

27 Respondents can signify acceptance and approval of the

1 terms and conditions of this Stipulation by faxing a copy of its
 2 signature page, as actually signed by Respondents, to the
 3 Department at the following telephone/fax number: James A. Demus
 4 at (213) 576-6917. Respondents agree, acknowledge and understand
 5 that by electronically sending to the Department a fax copy of
 6 Respondent's actual signature as it appears on the Stipulation,
 7 that receipt of the faxed copy by the Department shall be as
 8 binding on Respondent as if the Department had received the
 9 original signed Stipulation.

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 12 DATED: 1-11-2013 
 13 MICHAEL GRANT SIPES, as Designated
 14 Officer of EVANS/SIPES INC

15 DATED: 1-11-2013 
 16 MICHAEL GRANT SIPES, Respondent

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 18 DATED: 1-11-2013 
 19 FRANK M. BUDA
 20 Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents EVANS/SIPES INC and
MICHAEL GRANT SIPES and shall become effective at 12 o'clock noon
on MAR - 7 2013, 2013.

IT IS SO ORDERED 4/29/, 2013.

Real Estate Commissioner

By: 
By AWET P. KIDANE
Chief Deputy Commissioner